

DEFICIENCY PROGRESS REPORT – UPDATE 5

October 10, 2007

CUPA: DEL NORTE COUNTY HEALTH AND HUMAN SERVICES

Evaluation Date: June 23, 2005

Evaluators: Tina Gonzales, Cal/EPA
Ahmad Kashkoli, SWRCB
Jack Harrah, OES

Status: Deficiency 7 remains outstanding.

Next Progress Report (6th Update) Due: December 10, 2007

1. **Deficiency:** The CUPA's Application/Operational Manual contains a Consolidated Permit Plan[;] however, it still does not specifically address a system for expedited review, or tracking.

Preliminary Corrective Action by September 21, 2005: The CUPA should develop and incorporate procedures for the manual to include these elements within the next 90 days.

CUPA Corrective Action (October 13, 2006): [The CUPA did not submit a corrective action for this deficiency at this time.]

Cal/EPA Comments to October 13, 2006, Corrective Action: *This deficiency is still outstanding: Please update your procedures for expedited review, and tracking and provide a copy of these procedures to Cal/EPA at the next upcoming update.*

CUPA Corrective Action (December 8, 2006): With regard to expedited review and tracking of permits, we [Del Norte County CUPA] submit a copy of the new procedures incorporated as Appendix 7-A and Appendix 7-B of the CUPA Operations Manual.

Cal/EPA Comments to December 8, 2006, Corrective Action: *Cal/EPA considers this deficiency to be corrected.*

2. **Deficiency:** The CUPA has not fully developed and implemented a Unified Inspection and Enforcement Plan. The CUPA's application/operations manual contains some of the required elements, but does not address all the required inspection and enforcement components.

Preliminary Corrective Action by September 21, 2005: The plan needs to address combined inspections; it only contains the provisions for integrated/multi-media inspections. The plan needs to specifically address mechanisms to ensure training standards are met; it only has provisions for cross training. The plan needs to include enforcement coordination procedures to ensure confidentiality, coordination and timely notification. The plan does not address provisions to encourage combined or multi-media enforcement. These additional procedural items should be developed for the Inspection and Enforcement Plan within the next 90 days.

CUPA Corrective Action (October 13, 2006): [The CUPA did not submit a corrective action for this deficiency at this time.]

Cal/EPA Comments to October 13, 2006, Corrective Action: *This deficiency is still outstanding. Please update your and provide the sections required in your Inspection and Enforcement Plan and send the procedures for the portions requested by Cal/EPA in your Summary of Findings.*

CUPA Corrective Action (December 8, 2006): Enclosed are the relevant Sections of the Operations Manual: Section 11 – *Inspection and Enforcement Program Plan* and Section 17 – *Training and Technical Expertise*.

Cal/EPA Comments to December 8, 2006, Corrective Action: *Cal/EPA considers this deficiency to be corrected.*

3. **Deficiency:** The CUPA staff is lacking on-going training classes attended; files reviewed showed no training attended since the 2000/2001 fiscal year.

Preliminary Corrective Action by December 20, 2005: Suggestions from evaluators to look into close State and local agencies to see what training they offered, checking with the CUPA Forum Board, and checking into the 2006 CUPA Conference in San Francisco scheduled in February. They may need to find suggestions for funding perhaps through CUPA Training Grants, other Grants, or their Board of Supervisors for Budget monies. Time to correct: 180 days.

CUPA Corrective Action (October 13, 2006):

| | | |
|----------------|--------------------|---|
| Steve Landes | 11/1/05 to 11/2/05 | Taming the Wild Zebra |
| | 3/9/06 | Making Sns of the National Incident Management System |
| | 5/25/06 | Attended Salinas Valley Ammonia Safety Day |
| | 9/20/06 | FEMA IS-00100 Incident Command System |
| | 10/11/06 | Attended in Eureka California OES training on CalARP Spill Release Reporting and Hazardous Materials Business Plans |
| Leon Perreault | 2/4/02 to 2/8/02 | California CUPA Forum in Santa Clara |
| | 11/1/05 to 11/2/05 | Taming the Wild Zebra |
| | 2/6/06 to 2/9/06 | California CUPA Forum in San Francisco |
| | 3/28/06 | Laser Grande ICC California UST Inspector Certification Test |

Cal/EPA Comments to October 13, 2006, Corrective Action: *The CUPA has shown an increase in the training classes attended in the last 12-18 months, provided in their list attachment. Please continue the progress, this deficiency is considered corrected.*

4. **Deficiency:** CUPA does not require submittal of monitoring plan, plot plan and response plan for review and approval, pursuant to CCR, Title 23, Sections 2634(d) and 2641(g).

Preliminary Corrective Action by December 20, 2005: Within the next six months, the CUPA staff should review the UST files and notify the potentially affected UST owners/operators to request their immediate submission of monitoring plan, plot plan and response plan. The CUPA staff should review the submitted documents for completeness prior to filing the documents in the facility files.

CUPA Corrective Action (October 13, 2006): [The CUPA did not submit a corrective action for this deficiency at this time.]

Cal/EPA Comments to October 13, 2006, Corrective Action: *This deficiency is still outstanding: Please submit documentation showing what steps are being made to have UST owner/operators notified to request monitoring, plot, and response plans to be included in the files, and what steps are being done to ensure completeness of file review prior to the filing of documents.*

CUPA Corrective Action (December 8, 2006): Enclosed are two typical contact letters along with the monitoring, plot, and response plans submitted by the facility owners. All active facilities have been contacted although not all have responded as yet. Now that I [Leon A. Perreault] am back to work, this item is a high priority for us [Del Norte County CUPA].

Cal/EPA Comments to December 8, 2006, Corrective Action: *Cal/EPA considers this deficiency to be corrected.*

5. Deficiency: CUPA is not inspecting the UST facilities annually.

Preliminary Corrective Action by August 22, 2005: Within the next 60 days CUPA should submit a plan of action to State Water Board as to how it intends to correct this deficiency, and inspect all UST facilities in the fiscal year 2004/2005.

CUPA Corrective Action (October 13, 2006): [The CUPA did not submit a corrective action for this deficiency at this time.]

Cal/EPA Comments to October 13, 2006, Corrective Action: *This deficiency is still outstanding. Please submit a plan of action to correct the deficiency and plans to inspect all UST facilities annually.*

CUPA Corrective Action (December 8, 2006): See Plan of Action to Ensure Annual Inspection of UST Facilities.

Cal/EPA Comments to December 8, 2006, Corrective Action: *The CUPA inspected 16 of 19 regulated UST facilities during the FY05-06. This is a tremendous improvement from the previous fiscal year. Great work! However, this is still below the annual inspection frequency for UST facilities. Do continue to work toward inspecting all the regulated UST businesses annually. On the next status report, please update Cal-EPA on the status of this deficiency; for example, include the inspection goals for your inspectors, the actual number of routine (compliance) inspections conducted and the total number of regulated UST businesses for the eight months into FY06/07 (July 1, 2006 to February 28, 2007). Let me know if you wish to request a different data timeframe for this deficiency.*

CUPA Corrective Action (March 14, 2007): I [Mr. Leon A. Perreault of Del Norte County CUPA] have performed 7 UST inspections during the period of July 1, 2006, through February 28, 2007, but there were no UST inspections done in July through December 2006, because of my being out of the office due to injury. My goal is to inspect every UST facility during this calendar year and, hopefully, most will be inspected by the end

of the 2006-2007 fiscal year. One additional inspection is already scheduled for April 2, 2007.

There are currently 19 UST facilities of which three are under temporary closure.

Also, three UST facilities will probably have their tanks removed by the end of the fiscal year – CHP/Crescent City, Crescent City Wastewater Treatment Plant, and Pelican Bay State Prison. Sutter Coast Hospital may also be removing their UST and replacing it with a Convault sometime during 2007.

Cal/EPA & SWRCB Comments to March 14, 2007, Corrective Action:

*This deficiency is still outstanding as only 7 of 19 facilities have been inspected from July 2006 through February 2007. However, do continue to work toward inspecting the remaining UST facilities by the end of the fiscal year. On the next status report due on **June 13, 2007**, please update Cal/EPA on the status of this deficiency, including the actual number of routine (compliance) inspections conducted and the total number of regulated UST businesses for the 11 months into this fiscal year (July 1, 2006 to May 30, 2007).*

CUPA Corrective Action (July 11, 2007): I [Mr. Leon A. Perreault of Del Norte County CUPA] have performed 14 UST inspections, not counting tank removals, during the period of January 1, 2007 through June 30, 2007. The two remaining inspections are scheduled for July, 2007.

There are currently 16 UST facilities, of which two are under temporary closure.

Three facilities have had their USTs removed as of this writing—CHP/Crescent City, Crescent City Wastewater Treatment Plant, and Pelican Bay State Prison. Sutter Coast Hospital may also be removing their UST and replacing it with a ConVault sometime during 2007.

Cal/EPA & SWRCB Comments to July 11, 2007, Corrective Action:

This deficiency has been satisfactorily corrected and no further update is required.

- 6. Deficiency:** CUPA is issuing operating permit without determining whether the facility is in compliance.

Preliminary Corrective Action (by unspecified date): CUPA should inspect the facility to make certain that is in compliance prior to issuing an operating permit.

CUPA Corrective Action (October 13, 2006): [The CUPA did not submit a corrective action for this deficiency at this time.]

Cal/EPA Comments to October 13, 2006, Corrective Action: *This deficiency is still outstanding: Please submit a plan of action on how the CUPA plans to inspect facilities to be certain they are in compliance prior to issuance of a permit.*

CUPA Corrective Action (December 8, 2006): Appendix 7-A and Appendix 7-B submitted for Item 1 contain policies and procedures addressing this issue as well. We [Del Norte County CUPA] have already implemented this policy.

Cal/EPA Comments to December 8, 2006, Corrective Action: *The CUPA has been implementing policies and procedures to ensure that permitted facilities are in compliance. Please submit the following documentation for at least three UST facilities that have been recently permitted within this fiscal year (if not, existing UST facilities will suffice): (1) their application for a permit; (2) their current permit; (2) a copy of their routine (compliance) inspection; and (3) their notice-to-comply (return-to-compliance) certificate or re-inspection report, if violation(s) was found on their routine inspection.*

CUPA Corrective Action (March 14, 2007): Enclosed please find documentation for two UST facilities, including their application, current permit, and a copy of their last inspection report. We [Del Norte County CUPA] have not issued any permits besides these during this fiscal year. We [Del Norte County CUPA] will be reissuing every UST permit during 2007 since the name of our agency has changed and the permits will need to be rewritten to show the new agency name – Del Norte County Health and Human Services CUPA.

By the way, do we [Del Norte County CUPA] need to do anything (reapply as a CUPA, for example) if our agency name has changed?

Cal/EPA & SWRCB Comments to March 14, 2007, Corrective Action: *With regard to the CHP facility documentation, the following comments have been provided:*

Comment 1 – The comments section of the inspection report stated “Audio-visual overflow alarm not working at time of inspection-adequate overflow protection in place to prevent overfills. No violation noted.” If overflow with audio-visual alarms is the method of overflow prevention, and it is not working, then it is a violation (and for SOC purposes, also). The

report did not state, in detail, the other method used for overfill protection, but only reported that “adequate” protection was provided.

Comment 2 – The tank permit forms (A & B) are not the current version of the forms and, therefore, all required information are not being collected. In addition, the current version of the forms, if appropriately filled out, would provide information on the method that the owner uses for overfill prevention. This should be the basis for determining compliance for overfill protection.

There are no comments for the Tour Thru Tree facility documentation.

*Although the CUPA is making an effort to verify that a facility is in compliance before issuing their permit, the CUPA does not always ensure that the most current version of the tank permit forms are submitted at the time of permit renewal. By not requiring submittal of the current forms, the facility is not in full compliance. Therefore, this deficiency remains uncorrected. The SWRCB is willing to meet with Del Norte County CUPA to discuss ways to improve the permit and inspection processes and devise a plan toward correcting this deficiency. The CUPA is encouraged to contact Ms. Marci Christofferson of SWRCB at 916-341-5594 or via email at MChristofferson@waterboards.ca.gov for guidance and assistance. On the next status report, due on **June 13, 2007**, the CUPA is requested to provide (1) a plan toward correcting this deficiency and (2) supporting documentation to ensure that all required information are collected by using the current version of the forms for permits and permit renewals. For example, the plan may be a revision of the permit and inspection processes to ensure that all pertinent and current information are obtained.*

In response to the CUPA’s question on agency name change, Del Norte County is not required to re-apply to be a CUPA because their agency name has changed.

CUPA Corrective Action (July 11, 2007): The CHP facility no longer has any USTs, so Cal-EPA’s responses concerning this facility are moot.

We will require UST facilities to submit the most current application forms upon permit renewal or update. Since we are in the process of updating our UST permits due to the CUPA name change, this should be corrected within the Fiscal Year 2007-08. I [Mr. Leon A. Perreault of Del Norte County CUPA] agree to incorporate language into our operations manual stating that the most current version of application forms shall be used.

Cal/EPA & SWRCB Comments to July 11, 2007, Corrective Action:

*This deficiency will be considered corrected upon receipt of a revised copy of the operations manual to document the correction by the next update due on **September 11, 2007**.*

CUPA Corrective Action (September 24, 2007): Attached is our revised permit issuance procedure from the operations manual. We are requiring that the latest versions of Unidocs permit application documents be collected prior to the issuance of any new or updated review.

We are in the process of reviewing and updating all UST permits and we will require the completion of the most recent application forms before issuing any new or updated permit.

Cal/EPA & SWRCB Comments to September 24, 2007, Corrective Action: *The CUPA has satisfactorily corrected this deficiency; no further update is required.*

- 7. Deficiency:** The CUPA is not meeting its inspection frequency for CalARP facilities.

Preliminary Corrective Action by June 22, 2006: Within one year the CUPA should have a plan to inspect all of the CalARP and business plan facilities every three years.

CUPA Corrective Action (October 13, 2006): We [Del Norte County CUPA] have 2 CalARP facilities. One was visited this fiscal year, the other will hopefully be visited next fiscal year. Inspections for Business Plans only facilities were previously documented on a list compiled each fiscal year. We [Del Norte County CUPA] now have an inspection sheet in each Business Plan file indicating inspection dates and a comment line (a copy of inspection sheet enclosed).

Cal/EPA & OES Comments to October 13, 2006, Corrective Action: *This deficiency is being corrected. Please keep reporting progress on the quarterly reports. This will also be reflected in the annual Cal/ARP performance audit and in Report 3 of the annual reports.*

CUPA Corrective Action (December 8, 2006): This deficiency is being corrected. We [Del Norte County CUPA] were not aware that a site visit to a CalARP facility for any inspection activity counts as a CalARP inspection for summary purposes, so we [Del Norte County CUPA] actually had more reportable visits than the summary reports would indicate. We [Del Norte County CUPA] will keep reporting our progress on the quarterly reports, as well as the annual summary reports.

Cal/EPA & OES Comments to December 8, 2006, Corrective Action:

*The CUPA stated on their 2nd status update that they “are not aware that a site visit to a CalARP facility for **any** inspection activity counts as a CalARP inspection for summary report purposes.” According to the instruction for the Annual CUPA-to-State Summary Report 3 (Inspections), Column 2 (“Number of Regulated Businesses Inspected”) reflects “only one inspection per element may be counted per State fiscal year. **Any** type of inspection may be counted.” However, for clarification, Cal-EPA evaluates the frequency of inspections based on the number of **routine (compliance)** inspections, which is the number reported under Report 3 Column 3. The instruction for Report 3 is available for download from the Unified Program website at <http://www.calepa.ca.gov/CUPA/Publications/#CUPAtoState>.*

Based on the CUPA’s Annual Summary Report 3 FY05/06, the CUPA has inspected 39% (25 of 65) of their HMRRP businesses and 50% (1 of 2) of their CalARP businesses. These (routine/compliance) inspection frequencies are above the triennial standards. Keep up the good work! To ensure that the CUPA continues to inspect the regulated HMRRP and CalARP communities on a triennial basis, please update Cal-EPA on the frequency of routine (compliance) inspections on these regulated businesses. For example, include the inspection goals for each inspector, the actual number of routine (compliance) inspections conducted and the total number of regulated HMRRP and CalARP businesses for the eight months into FY06/07 (July 1, 2006, to February 28, 2007). Let me know if you wish to request a different data timeframe for this deficiency. When inspecting a regulated business with multiple Unified Program elements, the CUPA must correctly track and record the appropriate program element(s) actually inspected. Also, please submit a copy of a routine (compliance) inspection report for each HMRRP and CalARP businesses that are dated within FY05/06 or during this current fiscal year.

CUPA Corrective Action (March 14, 2007): Thank you for the explanation regarding entries on Summary Report 3, Columns 2 and 3, relative to CalARP facilities. We [Del Norte County CUPA] will report more accurately in the future.

Our inspection goals for Fiscal Year 2006/2007 include a minimum of 18 HMRRP facility inspections of which five are already completed. This number of routine inspections along with last year’s inspections will total 2/3 of our HMRRP facilities inspected for the two-year period. One CalARP facility may be visited this fiscal year as their RMP is due next fiscal year.

This CUPA previously wrote combined routine post-inspection reports that included non-compliance observations for facilities that had an HMBP and were a hazardous waste generator. We [Del Norte County CUPA] were found deficient during a previous CUPA audit for not leaving a Notice of Violation at the time of inspection for the waste generator violations. We [Del Norte County CUPA] have since changed procedures to include a Notice of Violation at the time of inspection.

We [Del Norte County CUPA] now inform the facility that their HMBP inspection is due and usually require the HMBP be completely updated and a copy submitted to the CUPA prior to the routine inspection. The inspection then generally becomes a determination of whether “what’s on the paper is what’s on the site.” Necessary corrections can then be made to the HMBP at inspection time and an actual inspection report is rarely needed.

Cal/EPA & OES Comments to March 14, 2007, Corrective Action:

*With respect to the original deficiency, the CUPA has not yet inspected any of the two CalARP facilities this fiscal year. Therefore, this deficiency remains outstanding. The CUPA is encouraged to utilize the CalARP guidance document that is available on OES’ website. The guidance document includes examples of CalARP inspection checklists. For further assistance, the CUPA may contact Jack Harrah at (916) 845-8759 or via email at jack.harrah@oes.ca.gov. On the next status report due on **June 13, 2007**, please update Cal/EPA on the status of this deficiency.*

Regarding the business plan program inspection frequency, no further update is required from the CUPA as no deficiency was identified at the time of the evaluation. However, the CUPA is still required by law to inspect each business plan facility at least once every three years. Therefore, Del Norte County CUPA must have proof or documentation that they have inspected each business plan facility, such as an inspection report, which must be kept on file for at least five years. Writing notes on the facility’s HMBP during an inspection is fine; however, it does not replace nor substitute an inspection report. The “Inspection Sheet” containing only date and comment lines, which was provided to Cal/EPA in October 2006 as supporting documentation to the CUPA’s status report, is very minimal and will not be sufficient in the event that an enforcement action must be taken against a facility. A separate log or record of inspections for each facility will suffice, but a full inspection report is strongly recommended for each inspection conducted. The CUPA is encouraged to view the sample inspection forms, guidance on inspection report writing, and other forms, tools, and resources available for download from the Unidocs website at <http://www.unidocs.org/hazmat/inspections/agency-use/index.html> and the

Cal-CUPA Forum website at <http://calcupa.net/forms.html>. Currently, no update is required from the CUPA regarding the business plan program; however, the inspection documentation issue will be reassessed in the CUPA's next evaluation.

CUPA Corrective Action (July 11, 2007): A recent visit to one of our Cal-ARP locations revealed a partial dismantling of its facility. It was reported to us that the quantity of anhydrous ammonia onsite was less than 500 lbs. We are eliminating this location from our Cal-ARP requirements based on current information.

Cal/EPA & OES Comments to July 11, 2007, Corrective Action: *The CUPA has yet to inspect the one remaining CalARP facility in Del Norte County according to CalARP compliance guidelines. Thus, this deficiency remains outstanding. The CUPA is strongly encouraged to utilize the CalARP guidance document that is available on OES' website. The guidance document includes examples of CalARP inspection checklists. For additional assistance, the CUPA may contact Jack Harrah at (916) 845-8759 or via email at jack.harrah@oes.ca.gov. On the next status report due on **September 11, 2007**, please update Cal/EPA on the status of this deficiency.*

CUPA Corrective Action (September 24, 2007): The other Cal/ARP facility you refer to was visited in May of 2006 as a routine HMBP inspection. It is a small Community Services District that uses gas chlorine for water disinfection. They have yet to submit the requested RMP nor have they changed their process to eliminate the gas chlorine (as was their stated intent) so as to become exempt from Cal/ARP requirements.

Cal/EPA & OES Comments to September 27, 2007, Corrective Action: *This deficiency remains outstanding. Although the CUPA has inspected the facility in May 2006 for a routine compliance inspection under the business plan program, the CUPA has not conducted a CalARP compliance inspection. A business plan compliance inspection is not the same as a CalARP compliance inspection. The CUPA is highly encouraged to contact Jack Harrah at (916) 845-8759 or via email at jack.harrah@oes.ca.gov for guidance on CalARP inspections. On the next status report due on December 10, 2007, please update Cal/EPA on the progress toward correcting this deficiency.*

- 8. Deficiency:** The CUPA does not have a CalARP dispute resolution process that addresses the requirements of Title 19, Section 2780.1.

Preliminary Corrective Action by August 22, 2005: Within 60 days the CUPA must develop a dispute resolution process for CalARP facilities, which addresses the specific requirements of T19, Section 2780.1.

CUPA Corrective Action (October 13, 2006): Copy of dispute resolution included with this mailing.

Cal/EPA & OES Comments to October 13, 2006, Corrective Action:
The attached draft Cal/ARP dispute resolution procedure meets all of the requirements of Title 19, Section 2780.1. Once this procedure has been finalized and adopted, the deficiency will be corrected.

CUPA Corrective Action (December 8, 2006): We [Del Norte County CUPA] have incorporated CalARP dispute resolution procedures into our operations manual. See supporting materials.

Cal/EPA & OES Comments to December 8, 2006, Corrective Action:
Cal/EPA considers this deficiency to be corrected.

- 9. Deficiency:** The CUPA does not appear to be obtaining annual inventories or inventory certification from all regulated businesses.

Preliminary Corrective Action by June 22, 2006: Within one year the CUPA must ensure that either inventories or inventory certifications are received annually from each regulated business.

CUPA Corrective Action (October 13, 2006): Annual certifications were previously placed in files labeled "CERTS 99", "CERTS 2000", "CERTS 2001" etc. We [Del Norte County CUPA] now place annual certifications into individual business plan files as submitted.

Cal/EPA & OES Comments to October 13, 2006, Corrective Action: *If this was indeed a filing issue, and the inventories/certifications actually were submitted but were filed elsewhere, then this deficiency is withdrawn. The issue will be reassessed at the next evaluation.*

- 10. Deficiency:** The CUPA has not reviewed and updated its Area Plan in the last three years. This process had begun when the CUPA lost staff several years ago, and the review languished for lack of staff resources.

Preliminary Corrective Action by June 22, 2006: Within one year, the CUPA must review and update the Area Plan. Please submit a copy of the revised plan to the evaluation team leader and to the OES evaluator.

CUPA Corrective Action (October 13, 2006): Updated Area Plan submitted to Cal/EPA and OES February 2006.

Cal/EPA & OES Comments to October 13, 2006, Corrective Action:

The following comments are offered concerning the area plan submitted to OES:

- 1) It is not dated.*
- 2) Some of the information is outdated (e.g. on page 25, the telephone number for the OES State Warning Center is now (916) 845-8911 (the 800 number is still valid), and the mailing address for OES is 3650 Schriever Ave, Mather, CA 95655).*
- 3) If there is a reporting page as required by Title 19, Section 2720 (c), it is not readily apparent.*

Be that as it may, this deficiency has been corrected.